

SENATE BILL 153

P1, M1, M3
SB 1058/09 – EHE

1lr1149

By: **Senator Colburn**

Introduced and read first time: January 24, 2011

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Reorganization of State Government – Consolidating the Department of the**
3 **Environment into the Department of Natural Resources**

4 FOR the purpose of restructuring State government by the consolidation of the
5 Department of the Environment into the Department of Natural Resources;
6 abolishing the Department of the Environment by a certain date; abolishing
7 certain positions under the Department of the Environment by a certain date;
8 transferring all of the functions, powers, duties, equipment, assets, and
9 liabilities of the Department of the Environment to the Department of Natural
10 Resources as of a certain date; transferring all of the boards, commissions,
11 programs, funds, and units of the Department of the Environment to the
12 Department of Natural Resources as of a certain date, subject to a certain plan;
13 providing for the meaning of certain names and titles in certain documents;
14 requiring the Secretary of Budget and Management, in conjunction with the
15 Secretary of Natural Resources and the Secretary of the Environment, to
16 develop the plan and to include certain elements, including necessary
17 legislation, certain provisions, a certain inventory, and a certain budget
18 reduction goal by a certain year; requiring the plan to provide certain employees
19 with a transfer option meeting certain requirements; providing for the transfer
20 of certain appropriations to the Department of Natural Resources on or before a
21 certain date; providing certain transitional provisions relating to the continuity
22 of certain terms of office in a certain division, board, commission, authority,
23 council, committee, office, or unit; providing for the continuity of certain rights,
24 duties, or interests flowing from certain transactions entered into before a
25 certain date; requiring the publisher of the Annotated Code of Maryland, in
26 consultation with, and subject to the approval of, the Department of Legislative
27 Services, to correct certain cross–references and terminology; providing for the
28 continuity of certain laws and regulations, proposed regulations, and other
29 duties and responsibilities; providing continuity for a certain license,
30 registration, or certification; providing continuity for certain bonds and other
31 financial instruments; requiring the Governor to include a certain appropriation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 in the State budget for a certain year that is consistent with the plan and that
 2 conforms to certain budget figures for a certain other year; repealing certain
 3 inconsistent laws; requiring the Secretary of Natural Resources to submit a
 4 report containing certain information to the Governor and the General
 5 Assembly on or before certain dates; making the provisions of this Act
 6 severable; defining a certain term; making certain stylistic changes and deleting
 7 an obsolete reference; and generally relating to restructuring State government
 8 by the consolidation of the Department of the Environment into the Department
 9 of Natural Resources.

10 BY repealing and reenacting, with amendments,
 11 Article – Natural Resources
 12 Section 1–101, 1–102(a) and (b), and 1–104(a), (c), (d), (g), and (i)
 13 Annotated Code of Maryland
 14 (2005 Replacement Volume and 2010 Supplement)

15 BY repealing
 16 Article – Natural Resources
 17 Section 1–104(l)
 18 Annotated Code of Maryland
 19 (2005 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Natural Resources**

23 1–101.

24 (a) **IN THIS TITLE, “NATURAL RESOURCES” MEANS ALL NATURAL**
 25 **RESOURCES IN THE STATE, INCLUDING LAND AND WATER RESOURCES.**

26 **(B)** There is a Department of Natural Resources, established as a principal
 27 department of the State government. The head of the Department is the Secretary of
 28 Natural Resources, who shall be appointed by the Governor with the advice and
 29 consent of the Senate. The Secretary shall be an individual with administrative
 30 ability, whose reputation and experience demonstrate [his] interest in the field of
 31 natural resources.

32 **[(b)] (C)** It is the intention of the General Assembly, in providing for a
 33 Department of Natural Resources, to establish a State department which, in addition
 34 to its other functions, shall:

35 (1) Review and evaluate all natural resources policies, plans,
 36 programs, and practices of State, county, regional, and federal agencies and
 37 institutions;

- 1 (2) Coordinate natural resources activities within the State;
- 2 (3) Be a center for collecting and organizing information on natural
3 resources for the guidance of the Governor and the General Assembly; and
- 4 (4) Otherwise unify, coordinate, and promulgate policies, plans,
5 programs, and practices which insure the preservation, development, wise use, and
6 enjoyment of all the natural resources for greatest benefits to the State and its
7 citizens.

8 [(c)] (D) The Secretary serves at the pleasure of the Governor. [He] **THE**
9 **SECRETARY** is directly responsible to the Governor and shall counsel and advise
10 [him] **THE GOVERNOR** on all matters assigned to the Department. The Secretary is
11 responsible for carrying out the Governor's policies in the areas of natural resources
12 research and development, management, and administration. The Secretary shall
13 receive the salary and have the assistants, employees, and professional consultants
14 provided in the State budget.

15 [(d)] (E) (1) (i) The Secretary is responsible for the operation of the
16 Secretary's office and shall establish guidelines and procedures to promote its orderly
17 and efficient administration.

18 (ii) The Secretary may establish areas of responsibility within
19 the Secretary's office and may reorganize or abolish them as necessary to fulfill the
20 duties assigned to the Secretary.

21 (iii) The Secretary may appoint such staff assistants as are
22 necessary to administer these areas of responsibility.

23 (2) The Secretary shall appoint, with the approval of the Governor, a
24 deputy secretary who shall have the duties provided by law or delegated by the
25 Secretary. The deputy secretary is in the executive service of the State Personnel
26 Management System, serves at the pleasure of the Secretary, and shall receive the
27 compensation provided in the State budget. All assistant secretaries, staff assistants,
28 and professional consultants are in the executive service, management service, or are
29 special appointments in the State Personnel Management System and are appointed
30 by and serve at the Secretary's pleasure. Wherever it is provided by law that the
31 Secretary makes an appointment to a particular office within the Department with the
32 approval of the Governor, the Secretary may not remove the appointee without first
33 obtaining the Governor's approval.

34 (3) Except as otherwise provided by law, the Secretary shall appoint
35 and remove all other personnel in accordance with the provisions of the State
36 Personnel and Pensions Article. The Secretary may delegate [his] **THE** authority to
37 appoint or remove personnel of any unit to the administrator of the unit.

1 **[(e)] (F)** The Attorney General is the legal adviser to the Department. The
2 Attorney General shall assign the number of assistant Attorneys General authorized
3 by law to be assigned to the units of the Department. One of the assistant Attorneys
4 General shall be designated by the Attorney General as counsel to the Department of
5 Natural Resources. The counsel to the Department shall have no other duty than to
6 render, subject to the discretion and control of the Attorney General, the legal aid,
7 advice, and counsel required by the Secretary and the other officials of the
8 Department and, also subject to the discretion and control of the Attorney General, to
9 supervise the other assistant Attorneys General assigned to the Department. After the
10 Attorney General has designated an assistant Attorney General to serve as counsel to
11 the Department of Natural Resources, the Attorney General may not reassign the
12 counsel without consultation with the Secretary. This subsection does not apply to any
13 unit of government within the Department of Natural Resources if the unit is
14 authorized by law to employ its own legal adviser or counsel.

15 1–102.

16 (a) The Department shall include all units, programs, boards, commissions,
17 and advisory boards and commissions referenced in this article **AND THE**
18 **ENVIRONMENT ARTICLE.**

19 (b) The following units are also included in this Department:

20 [(1) The Maryland Membership Unit of the Interstate Commission of
21 the Potomac River Basin;

22 (2) The Maryland Membership Unit of the Susquehanna River Basin
23 Commission;

24 (3) The Maryland Membership Unit of the Atlantic States Marine
25 Fisheries Commission;

26 (4) The Maryland Membership Unit of the Potomac River Fisheries
27 Commission;

28 (5) The Maryland Membership Unit of the Interstate Oil and Gas
29 Compact Commission; and

30 (6) The Maryland Membership Unit of the Interstate Mining
31 Commission.]

32 **(1) THE AIR QUALITY CONTROL ADVISORY COUNCIL;**

33 **(2) THE BOARD OF ENVIRONMENTAL SANITARIANS;**

34 **(3) THE BOARD OF WATERWORKS AND WASTE SYSTEM**
35 **OPERATORS;**

- 1 **(4) THE BOARD OF WELL DRILLERS;**
- 2 **(5) THE ENVIRONMENTAL NOISE ADVISORY COUNCIL;**
- 3 **(6) THE HAZARDOUS SUBSTANCES ADVISORY COUNCIL;**
- 4 **(7) THE HAZARDOUS WASTE FACILITIES SITING BOARD;**
- 5 **(8) THE MARYLAND MEMBERSHIP UNIT OF THE ATLANTIC**
6 **STATES MARINE FISHERIES COMMISSION;**
- 7 **(9) THE MARYLAND MEMBERSHIP UNIT OF THE INTERSTATE**
8 **COMMISSION OF THE POTOMAC RIVER BASIN;**
- 9 **(10) THE MARYLAND MEMBERSHIP UNIT OF THE INTERSTATE**
10 **MINING COMMISSION;**
- 11 **(11) THE MARYLAND MEMBERSHIP UNIT OF THE INTERSTATE**
12 **OIL AND GAS COMPACT COMMISSION;**
- 13 **(12) THE MARYLAND MEMBERSHIP UNIT OF THE POTOMAC**
14 **RIVER FISHERIES COMMISSION;**
- 15 **(13) THE MARYLAND MEMBERSHIP UNIT OF THE SUSQUEHANNA**
16 **RIVER BASIN COMMISSION;**
- 17 **(14) THE RADIATION CONTROL ADVISORY BOARD; AND**
- 18 **(15) THE SCIENCE AND HEALTH ADVISORY GROUP.**

19 1-104.

20 (a) The Secretary is responsible for the development of coordinated policies
21 for the preservation, conservation, enhancement, wise use, and perpetuation of the
22 natural resources of the State. [He] **THE SECRETARY** is responsible for the efficient
23 coordination of all the natural resources activities of the State including the
24 settlement of conflicts that may arise among units within the Department of Natural
25 Resources. In the discharge of [his responsibility] **THESE RESPONSIBILITIES** the
26 Secretary shall:

27 (1) Provide a forum of communication among natural resources units
28 **OF THE DEPARTMENT** and a source of information for the Governor and General
29 Assembly as to the preservation, conservation, development, and use of all the State's
30 natural resources;

1 (2) Study and evaluate any plan, program, or activity or any
2 combination of plans, programs, or activities within one or more of the units of the
3 Department, and recommend any legislative, budgetary, or administrative changes to
4 provide more effective administration, clarify responsibilities, terminate obsolete
5 programs, establish desirable programs, or alter or amend programs to meet changed
6 or changing conditions;

7 (3) Review federal statutes, policies, programs, and activities which
8 affect or may affect natural resources in the State and recommend to federal, State,
9 and local agencies and institutions procedures for the coordination of these programs;

10 (4) Study the natural resources activities of the subdivisions of the
11 State and recommend procedures for coordination of the natural resources activities of
12 the State and its subdivisions;

13 (5) Maintain a catalog classified by use, of public land acquired or
14 used in the preservation, conservation, development, management, or enjoyment of
15 the natural resources; review and approve all plans and proposals of the units of the
16 Department for the acquisition of additional land for such purposes, taking into
17 account public land owned and managed for identical or similar purposes by federal
18 agencies and by counties, municipalities, and other political subdivisions of the State;

19 (6) Establish and maintain, for the use of the Department, a natural
20 resources library, cataloged according to a recognized library system and containing
21 legal, scientific, and administrative reports, books, documents, photographs, records,
22 and other information on the natural resources and natural resources administration;
23 and

24 (7) Provide technical assistance to other State units, counties,
25 municipalities, corporations, organizations, groups, and individuals in planning,
26 organizing, and conducting leisure activities and recreation programs.

27 (c) The Secretary may transfer, assign, or reassign any function or activity of
28 any unit within the Department, together with the staff, funds, and equipment
29 associated with that function or activity, either to the office of the Secretary or to any
30 other unit within the Secretary's jurisdiction, in order to increase efficiency and
31 economy in administering natural resources in the State. Whenever the Secretary
32 believes any transfer of function or activity renders misleading or inadequate the
33 name of any unit within the Department as enumerated in § 1-102 of this subtitle,
34 **[he] THE SECRETARY**, with the Governor's approval, may assign a new name or
35 names to the affected unit. If this is done, the Secretary shall cause to be submitted to
36 the next ensuing session of the General Assembly a legislative proposal for
37 appropriate amendment of § 1-102 of this subtitle.

38 (d) The Secretary shall publish books, pamphlets, maps, and other materials
39 on the subject of natural resources and encourage and assist the Department's units in

1 the preparation of these materials for publication. [He] **THE SECRETARY** shall
2 maintain a supply of the publications and other materials for sale at cost to schools,
3 libraries, and the general public, and establish policies for the Department on the
4 gratuitous distribution of publications issued by the Department and its member
5 units.

6 (g) The Secretary is responsible for promulgating rules and regulations for
7 the Department. [He] **THE SECRETARY** shall review and have the power to approve,
8 disapprove, issue, or revise the rules and regulations of every unit of the Department.

9 (i) The office of Secretary of Natural Resources shall have a seal for
10 purposes of authentication of copies of records or papers in [his] **THE SECRETARY'S**
11 office.

12 [(l) For fiscal year 2007, the Governor shall include in the annual budget bill
13 submitted to the General Assembly an appropriation in an amount equal to at least
14 \$88,000 for the Department to maintain a natural resources library as required under
15 subsection (a)(6) of this section.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That:

17 (a) As of June 30, 2012, and subject to the provisions of subsection (b) of this
18 section, the Department of the Environment is hereby abolished as an independent
19 unit in the Executive Branch, and that as of July 1, 2012, the Department of Natural
20 Resources shall be the successor of the Department of the Environment.

21 (b) As of July 1, 2012, the positions of Secretary of the Environment and
22 Deputy Secretary of the Environment are abolished, and the Secretary of Natural
23 Resources shall be the successor of the Secretary of the Environment. This section
24 may not be construed to prevent the Governor from appointing an individual serving
25 in one of these positions as of June 30, 2012, to serve as the Secretary of Natural
26 Resources.

27 (c) Subject to the provisions of Section 3 of this Act, on July 1, 2012, all the
28 functions, powers, duties, equipment, assets, and liabilities of the Department of the
29 Environment shall be transferred to the Department of Natural Resources.

30 (d) Subject to the provisions of the plan and legislation developed and
31 implemented in accordance with Section 3 of this Act, all boards, commissions,
32 programs, funds, and other units in the Department of the Environment that were
33 created by statute, regulation, executive order, secretarial or unit directive, or other
34 executive action and in existence on June 30, 2012, shall be transferred to the
35 Department of Natural Resources as of July 1, 2012.

36 (e) In every law, executive order, regulation, policy, or document created by
37 any official, employee, or unit of this State, the names and titles of those officials,

1 employees, or units mean the names and titles of the successor official, employee, or
2 unit, as provided in this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That:

4 (a) (1) On or before November 1, 2011, the Secretary of Budget and
5 Management, in conjunction with the Secretary of Natural Resources and the
6 Secretary of the Environment, shall develop and submit to the Legislative Policy
7 Committee a comprehensive and practicable plan for the consolidation of all powers,
8 duties, functions, and staff of the departments, officers, and units administered in the
9 Department of the Environment and the Department of Natural Resources.

10 (2) The plan required under paragraph (1) of this section shall include:

11 (i) all necessary legislation to fully implement the provisions of
12 this Act on or before July 1, 2012;

13 (ii) provisions for the elimination or modification of duplicative
14 units, programs, and services and unnecessary management, professional and skilled
15 services, and special appointment positions in existence in the Department of the
16 Environment and the Department of Natural Resources on or before October 1, 2011;
17 and

18 (iii) an inventory of all capital facilities operated by the
19 Department of the Environment and the Department of Natural Resources, and
20 provisions for the consolidation of the facilities and all satellite operations and the
21 disposition of property and supplies rendered excessive as a result of the abolishment
22 of the Department of the Environment.

23 (b) The plan developed in accordance with subsection (a)(1) of this section,
24 and any legislation to implement it, shall establish a target percentage budget
25 reduction of 20% of the total of the combined general funds originally appropriated in
26 fiscal year 2012 for the Department of the Environment and the Department of
27 Natural Resources. The target percentage established by this subsection:

28 (1) shall become effective in the fiscal year 2013 State budget; and

29 (2) is not intended to affect allocations related to grants received from
30 sources other than State government.

31 SECTION 4. AND BE IT FURTHER ENACTED, That the plan required by
32 Section 3 of this Act shall contain specific proposals related to:

33 (a) the continued advancement of the interests of Maryland's natural
34 environment;

35 (b) services, programs, or functions currently offered by the Department of
36 the Environment and the Department of Natural Resources that shall:

1 (1) become fiscally self-sustaining through the imposition or
2 enhancement of application, registration, license, service, or other appropriate fees;

3 (2) be eliminated because they are no longer in demand or are
4 duplicated elsewhere;

5 (3) be transferred to other agencies currently responsible for related
6 public purposes and responsibilities, including the Department of Business and
7 Economic Development, the Department of Health and Mental Hygiene, and any other
8 appropriate Executive agency;

9 (4) by consolidation, be reduced in size, staffing, and other financial
10 requirements while still maintaining the essential nature of the service, program, or
11 function; and

12 (5) by privatization, shift the delivery of services or programs from the
13 public sector to the private sector; and

14 (c) any other areas in which financial savings may be realized through the
15 internal realignment of functions, including personnel and procurement.

16 SECTION 5. AND BE IT FURTHER ENACTED, That:

17 (a) The plan required by Section 3 of this Act shall give due consideration to
18 providing, to the extent possible, employees, other than those at the Deputy or
19 Assistant Secretary level, who will be affected by the reorganization encompassed in
20 the plan, the option of transferring to another position in State service.

21 (b) An employee transferred under this Act shall be appointed without
22 further examination or qualification. To the extent possible, the employee shall be
23 placed in a classification that is comparable in duties and responsibilities to the
24 employee's former position. The employee may not suffer a diminution of salary or
25 wages, accrued leave, whether earned or granted, retirement status, or seniority
26 rights.

27 SECTION 6. AND BE IT FURTHER ENACTED, That all appropriations,
28 including State and federal funds, held by the Department of the Environment to
29 carry out the functions and programs transferred under this Act shall be transferred
30 to the Department of Natural Resources on July 1, 2012.

31 SECTION 7. AND BE IT FURTHER ENACTED, That nothing in this Act
32 affects the terms of office of an appointed or elected member of any division, board,
33 commission, authority, council, committee, office, or unit. An individual who is a
34 member of a division, board, commission, authority, council, committee, office, or unit
35 on the effective date of this Act shall remain a member for the balance of the term to
36 which the member is appointed or elected, unless the member sooner dies, resigns, or
37 is removed under provisions of law.

1 SECTION 8. AND BE IT FURTHER ENACTED, That, except as expressly
2 provided to the contrary in this Act, any transaction affected by or flowing from any
3 statute here amended, repealed, or transferred, and validly entered into before the
4 effective date of this Act, and every right, duty, or interest following from the
5 transaction, remains valid after the effective date of this Act and may be terminated,
6 completed, consummated, or enforced in accordance with law.

7 SECTION 9. AND BE IT FURTHER ENACTED, That the publishers of the
8 Annotated Code of Maryland, in consultation with and subject to the approval of the
9 Department of Legislative Services, shall correct, with no further action required by
10 the General Assembly, cross-references and terminology rendered incorrect by this
11 Act or by any other Act of the General Assembly of 2011 that affects provisions
12 enacted by this Act. The publishers shall adequately describe any such correction in an
13 editor's note following the section affected.

14 SECTION 10. AND BE IT FURTHER ENACTED, That, except as otherwise
15 provided by law, all existing laws, regulations, proposed regulations, standards and
16 guidelines, policies, orders and other directives, forms, plans, memberships, contracts,
17 property, investigations, administrative and judicial responsibilities, rights to sue and
18 be sued, and all other duties and responsibilities associated with the functions of the
19 Department of the Environment before the effective date of this Act shall continue in
20 effect under the Department of Natural Resources until completed, withdrawn,
21 canceled, modified, or otherwise changed in accordance with law.

22 SECTION 11. AND BE IT FURTHER ENACTED, That any person licensed,
23 registered, permitted, or certified under any department, agency, office, or unit
24 transferred by this Act is considered for all purposes to be licensed, registered,
25 permitted, or certified for the duration of the term for which the license, registration,
26 permit, or certification was issued, and may renew that authorization in accordance
27 with the appropriate renewal provisions provided under this Act. Any person that was
28 originally licensed, registered, permitted, or certified under a provision of law that has
29 been repealed by this Act as obsolete or inconsistent with this Act continues to meet
30 the requirements of the license, registration, permit, or certification to the same extent
31 as though that provision had not been repealed.

32 SECTION 12. AND BE IT FURTHER ENACTED, That all bonds, notes, bond
33 anticipation notes, notes in the nature of commercial paper, or other instruments,
34 certificates or evidence of indebtedness or obligation issued by the Department of the
35 Environment, or any division, agency, authority, body corporate or politic, or public
36 instrumentality within or under the Department of the Environment, or issued on
37 behalf of the Department of the Environment or the State, are valid, legal, binding,
38 and enforceable obligations to the extent of the obligation as provided in the bonds,
39 notes, instruments, certificates, or evidence of indebtedness.

40 SECTION 13. AND BE IT FURTHER ENACTED, That:

1 (a) For fiscal year 2013, the Governor shall include in the State budget an
2 appropriation for the Department of Natural Resources that is consistent with the
3 plan and legislation submitted to the General Assembly in accordance with this Act.

4 (b) In order to facilitate comparison between expenditures in previous years
5 and the fiscal year 2013 allowance, the budget submitted for the Department of
6 Natural Resources for fiscal year 2013 shall conform to the actual budget figures for
7 fiscal year 2011 and the appropriation figures for fiscal year 2012 to a budget code
8 structure newly formulated to reflect the consolidation and restructuring required
9 under this Act.

10 SECTION 14. AND BE IT FURTHER ENACTED, That all laws or parts of
11 laws, public general or public local, or regulations inconsistent with this Act are
12 repealed to the extent of the inconsistency.

13 SECTION 15. AND BE IT FURTHER ENACTED, That, on or before January 1,
14 2013, January 1, 2014, and January 1, 2015, the Secretary of Natural Resources shall
15 submit to the Governor and, subject to § 2–1246 of the State Government Article, the
16 General Assembly a progress report on the implementation of this Act. Each report
17 shall summarize the operation of the Department of Natural Resources under the
18 structure formulated as a result of this Act and shall include recommendations and
19 any appropriate legislative proposals for additional cost–saving measures and
20 enhanced efficiency of operations.

21 SECTION 16. AND BE IT FURTHER ENACTED, That if any provision of this
22 Act or the application thereof to any person or circumstance is held invalid for any
23 reason in a court of competent jurisdiction, the invalidity does not affect other
24 provisions or any other application of this Act which can be given effect without the
25 invalid provision or application, and for this purpose the provisions of this Act are
26 declared severable.

27 SECTION 17. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2011.